SPEECH

OF

GEORGE E. PUGH, OF OHIO,

IN THE

DEMOCRATIC NATIONAL CONVENTION

AT CHARLESTON,

FRIDAY, APRIL 27, 1860.

Hon. WILLIAM L. YANCEY, of Alabama, having concluded his speech in support of the Platform first reported by Mr. AVERY of North Carolina, from the majority of the Committee on resolutions, Mr. PUGH addressed the Convention substantially as follows:

I rejoice that so candid, able, and eloquent a gentleman has told us, at last, what the majority of the Committee intend by their report, and what is the real question now to be decided. The delegate from Alabama scorns equivocation; hides behind no mere pretext; does not attempt to deceive us in any manner: he demands, plainly, that the Democratic party of the Northern States shall advance another degree—advance to a position never yet assumed—in order (as he has said) adequately to assure the rights and the honor of the South. He need not have told us, however, that a concession to his demand, if the demand be just and reasonable, will result in no permanent or even serious injury to ourselves. I agree, at once, that the Northern Democracy ought to concede whatever is just and reasonable; satisfy me in that regard, and then, so far as I am concerned, all exhortations, or appeals, or arguments from expediency, will be superfluous.

Why should the honorable delegate speak to you (General CUSHING in the Chair) or me, or any of our colleagues, of adhering to principles rather than seeking immediate or personal success? It is not in Alabama, with her unanimous Democratic representation in Congress, with her thousands and tens of thousands of Democratic majorities, increasing from year to year, that one would ordinarily look for examples of such virtue; it is rather in Massachusetts, in Ohio, or in some other State where victory is hopeless, or, at best, uncertain. The honorable delegate must have forgotten the history of events, at the North, during the last six years. In what, sir, have we failed of duty toward our brethren of the South? When have we denied the faith, or abandoned the Democratic organization, for the sake of any local advantage? Let the honorable delegate, or some one else, name such an occasion—the time, the place, and the circumstances. I remember distinctly that in March, 1854, when I was elected to the Senate of the United States, the whole NORTHWEST belonged to us; that there was not a single Senator or Representative of any other party, in Congress, from all the States of Illinois, Michigan, Wisconsin, and Iowa.

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There was one Whig Representative from Indiana, and nine from Ohio; but those two States were controlled by the Democratic party, and had been so controlled for a long time. We adhered to your cause, gentlemen of the South, in supporting the Kansas-Nebraska bill; we have adhered ever since—until from such heights of power, and influence, and almost absolute domination, at home, we have fallen to what we now are. I say this not to invoke sympathy, nor any reward at your hands: we ask you for justice only, and justice we must have.

Mr. President: In the month of January, 1856, when the Democracy of Alabama, by their delegates, assembled in State Convention, at Montgomery, the honorable gentleman (Mr. YANCEY) played as distinguished a part as he now does. The State then delivered her opinion with regard to all the questions here involved, and, at the same time, delivered her instructions to those whom she appointed to meet and consult with delegates from the other States at Cincinnati. I have in my hand the official record of that Alabama convention, and will read from it.

"Mr. Yancey, of Montgomery, offered the following resolution, which was adopted:

"*Resolved*, That two delegates from each congressional district be appointed by the chair to draft suitable resolutions for the action of this convention.

"The chair appointed, under said resolution, from the

"Third District—Messrs. W. L. Yancey and J. C. Towles.

"First District—Messrs. Meek and Stallworth.

"Second District—Messrs. Cochran and Burnett.

"Fourth District—Messrs. Brooks and Clements.

"Fifth District—Messrs. Phinisy and Smith.

"Sixth District—Messrs. L. P. Walker and W. O. Winston.

"Seventh District—Messrs. J. L. M. Curry and N. S. Graham."

Gentlemen of the Alabama delegation, how many of you were members of that Committee?*

"The Committee on Resolutions, through its chairman, Mr. W. L. Yancey, of Montgomery, submitted the following report:

"That the act of Congress providing territorial governments for Nebraska and Kansas, embodies the principle of Congressional non-interference upon the subject of slavery in the Territories, and that the provisions of that act, so far as they relate to that subject, meet the hearty concurrence and approval of this convention.

"That the Delegates to the Democratic National Convention to nominate a President and Vice President are hereby expressly instructed to insist that the said convention shall adopt a platform of principles, as the basis of a national organization, prior to the nomination of candidates, unequivocally asserting, in substance, the following propositions:

"1. The recognition and approval of the principle of non-intervention by Congress upon the subject of slavery in the Territories.

"2. That no restriction or prohibition of slavery in any Territory shall hereafter be made by any act of Congress.

"3. That no State shall be refused admission into the Union because of the existence of slavery therein.

"4. The faithful execution and maintenance of the fugitive slave law."

The honorable delegate said that we, of other States, had no concern with the instructions of Alabama to her delegates upon the present occasion. Assuredly not, sir, but for the fact that those instructions have been formally communicated to us by the delegates themselves. It is no secret, therefore, that Alabama refuses to act with us except on particular conditions; and those conditions are such as the honorable delegate has himself announced. But, sir, Alabama made conditions quite as peremptory, and at the instance of the honorable delegate, four years ago. She seems determined to prescribe beforehand, in all cases, the terms on which she will act with other States. Here is one of her resolutions, following those which I have read, in January, 1856:

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* NOTE.—Messrs. Yancey, Meek, Burnett, Brooks, Smith, and Walker were delegates from Alabama in the Convention at Charleston.

"That if said National Convention shall refuse to adopt the propositions embraced in the preceding resolutions, our delegates to said convention are hereby positively instructed to withdraw therefrom."

Let me stand here, Mr. President, as the most appropriate place of reply to the gentleman who has preceded me. Whatever the aggressions of the North upon the South, previous to January, 1856, these resolutions contain the whole remedy which Alabama then demanded—

Judge MEEK, of Alabama. I call upon the gentleman who has read the Alabama platform to read the whole of the resolutions. If he will read the first resolution, he will find a very different doctrine there, qualifying what he has read.

Mr. PUGH. I will, with pleasure, in one moment; although, assuredly, the honorable gentleman does not mean to suggest that contrary doctrines were affirmed by the same resolutions. [Laughter.]

Judge MEEK. The gentleman has only taken a part of the platform. He must take the whole together.

Mr. PUGH. I will explain to the gentleman, at once, what I intended to have explained in five minutes more. The Alabama platform of 1856 consisted of two distinct series of resolutions. The first declares the opinions of Alabama, *separately*, as to all the questions now under debate: that was her own, private, separate opinion. But when she instructed her delegates to speak for her, in General Convention of the Democratic party, she did not instruct them to require that; she put no such language into their mouths. [Applause.]

Judge MEEK. If the gentleman will not read the first resolution, the convention will understand why——

Mr. PUGH. The gentleman shall not complain that I have done the least injustice to Alabama; and, therefore, I will now read the resolution to which he refers. I hope that every delegate will listen to it.

"We, the delegates of the Democratic and anti-Know Nothing party of Alabama, in convention assembled, do adopt the following resolutions:

"1. That the following principles constitute the true basis of the national Democratic organization:

"First. The perfect equality of privileges—civil, religious, and political—of every citizen of our country, without reference to the place of his birth.

"2. The unqualified right of the people of the slaveholding States to the protection of their property in the States, in the Territories, and in the wilderness in which territorial governments are as yet unorganized. The Democratic platform is based on the recognition, not of one, but of both of these principles; and when efforts are made to separate these two questions, the Democratic party, resting upon its platform, says: We cannot compromise either proposition, but stand united upon both."

Mr. YANCEY. I endeavored to take this question out of the range of mere personal consistency. The gentleman has the advantage of following me. With the great respect I have for his power of argument, I do not fear to enter the lists with the gentleman upon the principles I have laid down, but I confess that if he is allowed to state my position and my mouth is closed meanwhile, I should be placed at a very great disadvantage——

Mr. PUGH. I was about to say that I made my observations in no personal sense.

Mr. YANCEY. Still they bear a personal application. I will say that no man recognizes more fully the disadvantage under which a speaker is placed by interruptions than myself. I do not desire to interrupt any gentleman; I shall not hereafter do so; but if the gentleman alludes to any personal position of mine, I shall claim the courtesy of him to afford me a fair opportunity of replying.

Mr. PUGH. The gentleman may interrupt me, or reply to me, at his own convenience; but I repeat that the occasion is too grave, in my estimation, for

any of us to debate an issue of personal consistency on the one side or the other. I referred to the proceedings of the Alabama Convention in January, 1856, not to arraign the gentleman and his colleagues individually, but to show that in the very year of the Cincinnati platform, and just before its adoption, when that State acted under the advice of the same gentlemen who now represent her—able, accomplished, and eloquent, as all must acknowledge them to be—while she entertained, for herself, the very opinions which the gentleman has so ably and eloquently announced in regard to vexed questions of constitutional law—she, nevertheless, agreed as the basis of compromise, of general or national organization, to accept the doctrine of congressional non-intervention with respect to slavery in the Territories. Alabama did not, on that occasion, propound to us the doctrine which she propounds now; and that is the point of this whole controversy from the first to the last. She now calls upon us to decide, as a party, that which did not (in her opinion) require any decision at that time; she calls upon us to advance—to adopt, as the platform of our party, that which she did not deem so essential four years ago. [Applause.] It cannot be said that she did not understand the question at that time, because the first resolution proves that she did. Why not insist upon it then? Because, my fellow-citizens, this great Federal Government is a government of compromise. The Democratic party recognizes the fact that the several States of this Union must needs have, with due regard to their climate, their soil, their circumstances, various forms of political and social life; and the distinct feature of our confederation is that it unites together, from the Atlantic to the Pacific, from the Lakes to the Gulf, all these various forms of political and social life, all into one common family so that we may live in peace, forbearance and unity together. [Applause.] We cannot—any of us—have all our rights; we cannot have all we desire. The slaveholding States cannot have everything; the non-slaveholding States cannot have everything; and, therefore, the State of Alabama, four years ago, feeling as acutely upon these questions as she now feels, admitted that it was consistent with her safety, her rights, and her honor to commune with other States—non-slaveholding States—in counsel, and therefore agreed to the compromise of Congressional non-intervention.

The gentleman adverted to many encroachments of the North upon the South; but none of these occurred by the assistance of the Democratic party in the Northern States, nor whilst any Northern Democrat held the Presidential chair. That such has been the opinion of Alabama, heretofore, is evident from the fact that she voted for the re-election of Martin Van Buren in 1840, and for the renomination of Franklin Pierce in 1856. In fact, sir, the Alabama resolutions of 1856, from which I have quoted, endorse the administration of Pierce in terms at once cordial and unqualified. Whatever the encroachments of the Northern Democracy, therefore, it is plain that they are of recent date; that they have occurred since Mr. Buchanan's election. But the honorable delegate specified one such encroachment, and no more, within that period; namely, the refusal to admit the State of Kansas, as a slaveholding State, under the Lecompton constitution. It is true that some of the Northern Democrats, in Congress, disagreed with the Southern Democracy on that occasion—and wherefore? Because the admission of a slaveholding State was demanded? Why, sir, not one of them objected for any such reason. They had all opposed the admission of Kansas into the Union, as a non-slaveholding State, in what they believed to be circumstances entirely similar—opposed it zealously, bitterly, and successfully, at the time of the Topeka constitution. I did not agree with Mr. Douglas in that Lecompton controversy; I should not agree with him, to-day, if the same controversy were again to arise; but I can well understand how a gentleman, a patriot, a sincere advocate of Democratic principles might differ with me, and differ widely, as to *the regularity* of proceedings toward the formation of a State

government, and without any regard to the question whether it was to be a slaveholding or a non-slaveholding State. We have differed among ourselves, in this Convention, in like circumstances—differed as to which of two entire delegations from the State of New York, had the prestige of regularity, and therefore the right of admission.

But the honorable delegate seems to have forgotten the Conference or English bill. That was a bill for the admission of Kansas into the Union, as a *slaveholding* State, if her people so desired; it was emphatically a Southern measure—prepared by Southern men, and urged by Southern influence. Of the six managers who framed it—three from the Senate and three from the House—four were Democrats, and the *South* had three of those four. There were Mr. Green of Missouri, Mr. Hunter of Virginia, and Mr. Stephens of Georgia; Mr. English of Indiana was the only Northern Democrat in the conference. How did we vote on that question? In the Senate, nine Northern Democrats in the affirmative, and three in the negative; in the House, forty in the affirmative, and thirteen in the negative. What were the votes (turning to Mr. VALLANDIGHAM) of our Northwestern men?

Mr. VALLANDIGHAM. Thirteen voted for it, in the House, and six against it.

Mr. PUGH. More than two to one. Every Democratic Congressman from Ohio voted for the bill; and yet, sir, the South did not unanimously support it, nor unanimously support the Senate bill (so called) for the admission of Kansas under the Lecompton constitution.

This leads me to notice an assertion of the honorable delegate from North Carolina (Mr. AVERY) in offering the resolutions proposed by a majority of the Committee over which he presides—an assertion repeated and even dwelt upon, with considerable warmth, by the honorable delegate from Alabama. It was to the effect that the resolutions of the majority had been adopted, in Committee, by the votes of the reliable Democratic States. Since what period, gentlemen, have all those States become so reliably Democratic? If you are familiar with history, since the inauguration of Andrew Jackson, in March, 1829, you must know that the State of New Hampshire—which you assume to treat with so much contumely—has voted for a Democratic President more often than the State of Georgia—Maine as often as Louisiana, and Rhode Island as often as Delaware—Ohio more often than Kentucky, and New York than Tennessee. Illinois never voted for any President except the Democratic nominee—[applause]—Indiana and Michigan never but twice—Iowa and Wisconsin but once. Tennessee voted for Jackson twice, and then voted against us until the time of Buchanan—a period of twenty years. Kentucky has voted for a Democratic President once, and but once, from 1828 until the present hour. I say this not to provoke comparisons; I say it merely to repel them.

But, sir, as North Carolina has spoken to us, particularly, let me examine her antecedents. She was a Whig State, and hopelessly such, for sixteen years; but in 1852, after the Democracy of the Northwest had united with the Democracy of the South to defeat the Wilmot proviso, and had actually and forever defeated it, she awoke barely in time to vote for Franklin Pierce. Afterwards, when the Democracy of the Northwest had so far advanced, with the Democracy of the South, as to repeal the Missouri restriction of March 6th, 1820, and enact the Kansas-Nebraska bill—why, sir, North Carolina then advanced a little farther, and gave a handsome majority to James Buchanan. But, instead of any assurance, at present, that she will continue in good works—as the honorable delegate [Mr. AVERY] would persuade us—she is now "backsliding" into her old and sorrowful condition. Her delegation is equally divided, to-day, in the House of Representatives—four Democrats only, and four Oppositionists—whereas the State of Ohio furnishes, even now, six Democratic votes in that House. Does the honorable delegate suppose, therefore, that he

can speak to us, in this debate, as one having authority; that we rank ourselves as inferior to him in any degree; that when we call upon the Southern Democracy to maintain their faith solemnly plighted with us in 1854, and again in 1856, we are such cravens as, at his rebuke, to place our hands on our mouths and our mouths in the dust? Oh, gentlemen of the South—once for all!—you entirely mistake us. We are not of that sort; we cannot do what you seem to desire—and we will not! [Applause.]

The honorable delegate from Alabama enquired wherein, if at all, his proposition would infringe upon the rights of the North. Well, sir, I do not care to answer that question at present—and because I intend to argue with him, this night, upon much higher and nobler considerations. Granted, for the sake of argument, that no right of the Northern States will be infringed, or rendered less available, by the doctrine of Congressional intervention; I object to it, nevertheless, as a doctrine sanctioned by no constitutional warrant—as dangerous alike to the South and the North, as fatal to the peace of the country, as in utter contravention of our promises to each other and to the world. Do I stand now, sir, upon the soil of South Carolina—of the State which, more than all others, for so long a period, through evil as well as good repute, has identified herself with strict construction and reserved rights—of the State which asserted those two great and cardinal principles even to the verge of nullification—of the State which has given a Calhoun, a Hayne, a McDuffie, a Cheves, and a Butler, to our common history—and yet feel myself under the necessity of apologizing when I require gentlemen to show me, in the Constitution of the United States, an adequate delegation to the Federal Government of whatever authority, upon any subject, they would ask that Government to exercise? Show it to me, gentlemen!—that is what I demand—place your fingers upon the article, the section, the very words, whence you derive a power so novel, so dangerous, or, at least, so delicate.

[On motion of Mr. Stuart, of Michigan, the Convention here took a recess for one hour. Mr. Pugh resumed the floor at nine o'clock.]

I said, before the recess, that I objected to the doctrine of *Congressional* intervention, whether for the maintenance or protection of slavery, within the Territories, or its abolition or exclusion, because I could find no warrant, in the Constitution of the United States, for such an exercise of Federal dominion. If the honorable delegate from Alabama, or any other gentleman, will satisfy me in that regard—will show me a sufficient authority in the Constitution from which, and from which only, the Congress of the United States must derive all the powers it can exercise—I am ready to unite with him, and to vote for the resolutions now proposed by a majority of the Committee. Nothing of that kind has been attempted, and nothing of that kind can be successfully, or even plausibly, attempted. I oppose the resolutions, therefore, because it is a fundamental doctrine of our party, as it was the habit of our Democratic fathers, to construe the Constitution of the United States plainly, strictly, jealously, and to abstain in every case, as far as possible, from the exercise of even doubtful power. The Federal Government has no intrinsic authority; it exists by mere delegation from the States; and, consequently, if that be not granted by the Constitution in express terms, or as necessarily incident to some other power so granted, Congress cannot assume any right of municipal legislation for the Territories. Admit, if you please, that a grant of this character *ought* to have been made—that the sages who framed our Constitution, and inaugurated a Government under it, were entirely at fault—and what then? Will gentlemen endeavor, by acts of Congress, or the resolutions of a party, or any like contrivance, to supply such a defect? Our fathers did not see fit, in their wisdom, to supply it; and if it must now be supplied—for any cause whatsoever—let us call upon the States to amend the Constitution in due form, and not undertake to amend it

by our platform. Sir, I cannot, and I will not, in these circumstances, contribute toward arming the Federal Government with any such power of legislation. It does not belong to the Government at all; it is not even of a Federal character; it is the assumption of imperial, arbitrary, absolute dominion over a distant people who have no Senators or Representatives in Congress, no vote for the President or the Vice President, no voice or influence in the Government any where. To act thus, sir, would be contrary to the genius of our Constitution; contrary to the faith of our Democratic fathers; an utter violation of the reserved rights of the States, and a violation even more enormous, if that be possible, of the rights of our fellow-citizens inhabiting the Territories. [Applause.] And the power of Congress being limited, by the Constitution, to the organization of Territorial governments for the protection of persons and property, and to the mere supervision of those governments, within very close limits, until such time as the people have attained the stature of sovereignty, and taken the garments of sovereignty upon themselves, I say that whenever it shall substitute itself for a Territorial Legislature—for the representatives of the people immediately chosen—Congress will have transcended the barriers of the Constitution by many degrees, and (more than all that) have grasped with a rude hand the very heart-strings of liberty and free government.

I ask you again, Mr. President, whether the soil of South Carolina—stained with so much blood spilled in the defence of popular sovereignty against foreign domination—covering the bones of heroes and sages who resisted nobly, in their day, the encroachments of Federal power upon the reserved rights of the States and the people—is an appropriate place on which the General Convention of the Democratic party ought to resolve that it will maintain, or even countenance, the exercise by Congress of authority not granted by the Constitution, or doubtful authority, at best, in disregard of the wishes of the people over whom such authority is to be exercised!

I object, furthermore, that Congressional intervention with the subject of slavery in the Territories—disguised by the majority of the Committee, in their report, under the excuse of "protection" to property whether in slaves or in aught else—will be fatal to the continuance of our Union, to its growth, its welfare, its now needful repose. For the first thirty years of the Federal Government, we had no such controversies as have lately arisen and become so imminent; and this because we then allowed the people of each Territory, as well as the people of each State, to do very much as they pleased. And who was injured by that? Alabama and Mississippi, whilst under Territorial government, saw fit to recognize, and maintain, and cherish the relation of master and slave. Congress did not meddle with their affairs; nobody else meddled; they were left, as the Kansas-Nebraska bill now declares, to regulate their domestic institutions in their own way. Afterwards, when they formed State constitutions, they chose still to recognize, and maintain, and cherish that relation; and they were both admitted into the Union, as slaveholding States, without the slightest opposition or complaint. And now, gentlemen, point to me a case, to a single instance, where slavery has existed in a Territory and a slaveholding State thence formed, except by means of the "squatter sovereignty" which you abhor and revile. I have mentioned Alabama and Mississippi; shall I mention, likewise, the cases of Tennessee, Louisiana, Missouri, Arkansas, and Florida? It was so in every case—down to and including the present Territory of New Mexico.

My fellow-citizens: Since the year 1820, when our Union touched the very brink of ruin—when Thomas Jefferson said that the agitation of this subject alarmed him like a fire-bell in the night—the wise men of the Democratic party, together with the wisest men of the Whig party, have constantly endeavored, and that by all possible means, to banish the question of slavery within the

Territories from the Halls of Congress. It has been the fruitful source of difficulties and sorrow. Whenever it is open for discussion, in Congress, each House becomes a theatre for demagogues of the meanest description—a place whence unruly spirits, from the North and from the South, send forth inflammatory appeals to the pride, the prejudices, the passions of their respective constituents. Nothing is transacted for the common weal; but all is wrangling, and bitterness, and animosity, most fatal to the interests, the welfare, and the peace of both sections. Will there NEVER be an end of this? Or will that end be the ruin of our country—the disruption of the Union, and of all those ties by which it has been secured? I say, for one, take the question out of Congress—take it away upon *any* terms. Give it to the people of each Territory; and let them quarrel, if they choose, or do anything else—no matter what—rather than restore such disputes to Congress. That was the idea of the Compromise Measures in 1850; that was, also, the doctrine of the Kansas-Nebraska bill.

I do not claim that the Kansas-Nebraska bill conferred upon a Territorial Legislature the power to exclude slavery, nor did it, upon the other hand, deny to a Territorial Legislature the power of such exclusion. It said nothing on that subject, but declared that Congress would not intervene, one way or another, to establish or to exclude slavery, to protect or to discourage slavery; but that the people of each Territory, to the full extent of their authority under the Constitution, as expounded by the judicial tribunals on proper occasions, should regulate, dispose of, and legislate upon the subject at their own pleasure.

The honorable delegate from Alabama refers to a speech delivered by Senator Brown, of Mississippi, during the debate on the Kansas-Nebraska bill, in which (as he tells us) a particular interpretation of the bill was announced, and not immediately contradicted by any one else. Therefore, says the honorable delegate, the bill must now be thus interpreted. Mr. President, who ever heard, before this, that in a deliberation of sixty odd Senators and two hundred and thirty odd Representatives, when, perhaps toward the close of a debate, when all were tired of it, and either gave no attention or very little to what was said, one gentleman could, by his speech, commit a whole Congress, or a whole Senate, to his opinion? I know Senator Brown very well; I admire him, and have many kind relations with him. I do not recollect the speech to which the honorable delegate alluded; but I feel confident that Senator Brown would not disagree with me, if he were present, as to the meaning and effect of the Kansas-Nebraska bill. My colleague [Mr. PAYNE] quoted, this morning, from a speech of Hon. R. M. T. Hunter, of Virginia, delivered in the Senate, on the 24th of February, 1854, to which I will again call your attention. I adopt it, unqualifiedly, as an exposition of my own opinions. Mr. Hunter then said:

"The bill provides that the Legislatures of these Territories shall have power to legislate over all rightful subjects of legislation consistently with the Constitution. And if they should assume powers which are thought to be inconsistent with the Constitution, the courts will decide that question wherever it may be raised. There is a difference of opinion among the friends of this measure as to the extent of the limits which the Constitution imposes upon the Territorial Legislatures. This bill proposes to leave these differences to the decision of the courts. To that tribunal I am willing to leave this decision, as it was once before proposed to be left by the celebrated compromise of the Senator from Delaware, (Mr. Clayton)—a measure which, according to my understanding, was the best compromise which was offered upon this subject of slavery. I say, then, that I am willing to leave this point, upon which the friends of the bill are at difference, to the decision of the courts."

That, sir, is in substance, and almost in words, what the minority of the Committee now recommend us to declare. I could point you, in the Congressional Globe, to a hundred instances in which Senators and Representatives delivered the very same sentiments during the debate on the Kansas-Nebraska bill. I have heard them uttered, time and again, in the Senate of the United States,

by gentlemen who voted for that bill, during the course of the last four years. I know, exactly, what the bill intended; it is no matter of argument, or probability, or criticism, with me. I know that the people of each Territory were to legislate upon the subject of slavery, whether for its protection or its discouragement, until the Supreme Court of the United States should have determined as to the authority of a Territorial Legislature in that regard. The Democratic Senators and Representatives could not agree upon that question, and, therefore, could not and did not determine it; they left it to the courts for determination. No act of Congress could have settled it, or can ever settle it. The Cincinnati platform follows this very idea; not (as gentlemen have said) that it is susceptible of two interpretations—for it is not—but that it purposely, and for excellent reasons, avoided any resolution upon the subject. There may be two opinions, or more than two, with regard to the question thereby left to the courts for determination; but there cannot be two opinions as to the intent of the platform to avoid that question, and avoid it altogether. This brings me now to ask whether any platform, or any act of Congress, ever will or can decide a question of that character.

It is in vain to deny that with a FEDERAL Government constituted as our Government has been—deriving all power by delegation from the States, and having dependencies, colonies, or (as we now call them) Territories—there is a peculiar right of emigration—a purely AMERICAN right of emigration from the States into the Territories. I acknowledge, frankly, that this right is not merely a right to go, naked, isolated, without anything which pertains to the emigrant as a citizen of one of the States. That would be an absurdity in terms. The emigrant does not take with him, of course, the laws of his own State; neither does he require any special right founded upon the Constitution of the United States; but his right is derived from the nature of our Federal Government, as a Government of States with Territories belonging to those States, and to be peopled by means of emigration from the States. It is certainly a right, therefore, to take his family, his household, and whatsoever pertains to him as a citizen. On the other hand (as all must acknowledge) there is another AMERICAN right, as entirely peculiar and as well defined; a right belonging to every community of our citizens: I mean, sir, *the right of local self-government.* It prevails in the States, and prevails, also, in the Territories. How far these two rights, at once peculiar and apparently equal, may conflict with each other; in what cases, to what extent, or in what particular circumstances, the one shall be preferred to the other: that is a question which cannot be decided in advance. No act of Congress ever will settle it; no general rule can be predicated of it. How idle, therefore, to embrace it by our platform! It must be left to some impartial authority—to some other tribunal than ourselves. If we should ascertain, hereafter, that no competent authority has been provided, by the wisdom of those who formed our Constitution, we can appeal to the States, in their separate and sovereign capacity, to provide one. The form in which a question of this character will first arise, and where it will ordinarily be determined, is the court of some Territory, whence it may be taken by appeal, or writ of error, to the Supreme Court of the United States as a tribunal established for the adjudication of controversies arising under the Constitution, or between the several States, or the citizens of any two States.

And here, sir, allow me an observation as well in reply to the honorable delegate from Massachusetts (Mr. BUTLER) as to the honorable delegate from Alabama. I agree that no court of merely judicial significance—whether appellate or inferior—can bind any one of the States, as between the Federal Government and herself, in the last resort. [Applause.] I believe the Federal Government to be founded upon mutual and written compact between the States; and inasmuch as the States entered into that compact separately and of their sovereign

will, so it belongs to each of them, as the ultimate arbiter of her own destiny, to decide when the compact has been broken, as well as to ordain the mode and measure of redress. [Great applause.] But whilst I say this, I will say, also, that with regard to the Federal Government alone, consisting of three coördinate departments, the argument is irresistible that a determination by the judiciary in favor of a constitutional prohibition to the exercise of power by Congress, or by an executive officer, ought to be treated with entire respect and deference.

The case of the Bank of the United States—to which both gentlemen alluded—does not contravene this proposition in the least. The Supreme Court decided that such a bank was constitutional; or, in other words, that Congress might, in its discretion, or at its own pleasure, establish or refuse to establish an institution of that character. Very well!—as one member of Congress, I see no necessity or propriety in establishing a Bank of the United States, and therefore will vote against it. But when (as in the case of Dred Scott) the Supreme Court decides that Congress has no power to exclude slaves or the institution of slavery from the Territories, if Congress should, notwithstanding that decision, enact such a law, it would array the judicial and the legislative departments of the same Government in direct opposition to each other; and from this opposition of two independent, equal, coördinate authorities — there being no arbiter between them—confusion must immediately ensue, and the Government be rendered powerless. It therefore becomes the duty of the legislative department, in such circumstances, to abstain from a course of action thus tending to confusion, anarchy, and common ruin. I say here—what I have once said in the Senate of the United States—that no court ever shall adopt a *political* platform for me; shall prescribe to me any article of faith or of opinion—neither by a decision hereafter to be made, nor a decision already made. I will believe, or disbelieve, according to my own standard; will entertain my opinions, and, if necessary, will vindicate them at all proper times and places; but as a legislator, or even as an elector—entrusted with the exercise of authority in which all the States and the people of all the States are equally interested—I do not conceive myself at liberty, upon any pretext whatsoever, to bring on a collision of the judicial and the legislative branches of our Federal system. On the contrary, whatever my opinion as an individual, it becomes a high and unavoidable duty that I should bow to the decision of the Supreme Court in such a case, and furthermore, as far as in me lies, take care that the decision is faithfully executed.

Therefore, sir, if the Supreme Court of the United States should ever decide (contrary to the opinion which I entertain) that a Territorial Legislature has no right, even by a *prospective* law, to exclude the institution of slavery, or prevent the introduction of slaves within its jurisdiction, and any Territorial Legislature should thenceforth attempt such exclusion or prevention, whether by direct, or by indirect or unfriendly legislation, I agree that the Federal Government ought to exercise all its constitutional authority, and to the amplest extent, in restraining, repressing, or annulling so violent an usurpation.

Allow me to pursue the subject one step farther. In thus rendering effectual a decision of the judicial department, made within the sphere of its constitutional duties, I take no responsibility from the shoulders of the judges. I neither affirm nor deny the correctness of their adjudication. I say, merely, that the court of last resort, under the Constitution, has expounded the law of the land; and whether it be expounded rightly or wrongly, in my own estimation, is altogether a subordinate inquiry and of no practical importance. It is for the sake of peace, of public order and security—for the maintenance of the Union according to the terms of compact between the States—to prevent collision, and violence, and an ultimate appeal to the sword—that I shall insist upon carrying

into full effect, and in good faith, even a decision which may not be acceptable to me.

The difference between the honorable delegate from Alabama and myself, therefore, is exactly this: He wishes us to assume for Congress, in advance, a power of MUNICIPAL legislation over the Territories. I make no distinction here—nor can that be of any consequence—whether such legislation be with regard to slavery, or to any other relation or institution. I acknowledge at once, and there need be no farther argument upon it, that the right of a master to the services of his slave, is a right of property, and as valid as any other. I acknowledge, furthermore, that it is entitled to the same protection and favor, by the Federal Government, within the Territories, as other forms of property; I agree that Congress can rightfully make no discrimination against it, and none for it. The difficulties of this question, in my mind, arise from no such considerations. Gentlemen of the South cannot say, therefore, that the question is of peculiar interest to themselves, or peculiarly concerns one form of property more than another. The difficulties, in my mind, are of a different character; they arise from the principles enunciated in the famous resolutions of Virginia and Kentucky, in 1798 and 1799, and the report of James Madison expounding those principles—in other words, sir, in reconciling the arguments of the honorable delegate from Alabama with the ancient Democratic doctrine of "strict construction" as applied to the Federal compact, and a due regard to the reserved rights of the States and the people. Show me the extent to which the Constitution has authorized the Government of the United States to proceed, by legislation or otherwise, for the protection of other forms of property, within the boundaries of a Territorial organization, and I am ready to proceed as far—and to proceed now—for the protection of property in slaves.

I will make another remark in this connection. There may be a case (and I can easily suppose one) in which the inhabitants of a Territory have proven themselves unfit for self-government, and even incapable of it. In such a case, the Congress of the United States, being THE AUTHOR of Territorial organizations, although not a principal of which Territorial Legislatures are the mere agents, may find it necessary to interpose the right of authorship as a paramount law—lest all the purposes of Territorial government should be subverted, private and personal rights or vested rights of property be destroyed, and anarchy or civil war inaugurated. I believe that is the condition of affairs, to-day, in the Territory of Utah: it was nearly or quite as bad, at one time, in the Territory of Kansas. I should have no scruples, in such a case, in revoking the Territorial charter of organization, or so amending it as to secure the rights of persons and of property as far as that could be effected by a constitutional exercise of authority on the part of the General Government. Another Emigrant Aid Company from Massachusetts, or from some other State, or any like association of disorderly and disloyal men—a band of Mormon Saints, perhaps, or a secret society formed in Great Britain, or Canada, or elsewhere—might seize upon the power of a Territorial government within our limits, and so conduct its administration as virtually to prohibit the immigration of citizens from a part or all of the States, or subject such immigrants to the confiscation of their lawful property or the destruction of their personal rights. A Territorial government might array itself in opposition to the Government of the United States—disclaim allegiance, or refuse obedience to a judicial mandate, or abuse its authority in numberless ways; and in all such cases, I grant that the whole strength of the Federal Government may and must be brought to bear for the correction of mischief and wasteful disorder. But, sir, it is of none of these cases, nor of others approaching them, the honorable delegate from Alabama now speaks: he insists that Congress is the immediate, local, municipal Legislature of each Territory, and that the Legislatures chosen by the people of the

Territories, in pursuance of their respective organical laws, are only agents, deputies, or substitutes for Congress. I deny the doctrine, and deny it upon the soundest, firmest, and most ancient of our Democratic principles.

Now, sir, in opposition to the honorable delegate, I have endeavored to show (first) that whilst *some* limitations of territorial authority can easily be ascertained from the language of the Constitution, or from the nature of our Federal system, there are others, and those on which he insists particularly, not to be ascertained so easily in the one way or the other, nor capable of definition, beforehand, in our political platform. No act of Congress could be of the least service to the honorable delegate and those who agree with him; because the validity of such an act, as well as of the act of any Territorial Legislature, is open to controversy, at all times, in the courts of the United States. I have endeavored to show (in the second place) that such questions, whenever they shall arise, are peculiarly judicial in character; and, thirdly, that the decision of the Supreme Court of the United States with regard to *such* questions (however it may be as to others,) will have an especial and binding efficacy on the two coordinate departments of the Federal Government. Why not leave the subject in this condition? If, as the honorable delegate claims, the principles adjudicated in the case of Dred Scott be conclusive against me, and in his favor, what need of argument or controversy here? Whenever a Territorial Legislature shall attempt the abolition of slavery, or its prospective exclusion, another case will probably arise—a case immediately in point—and will be decided. If no such attempt should ever be made—or, having been made, there should be no slaves within that Territory on whom the law could operate, and no master should wish to take his slave thither—what harm can possibly result? If, however, a case should arise—next year, or the year after, or at any distance of time—the honorable delegate could refer the judges of the Supreme Court to their argumentation in Dred Scott's case; and that, if his present claim be true, ought to be sufficient. He may well stand, therefore, upon the platform reported by the minority of the Committee; because he will find in it a pledge of the whole Democratic party, North and South, a pledge which never has been and never will be broken, that any decision in his favor, or in favor of his constituents, shall be carried into faithful, final, and complete effect. [Applause.] Yes, sir, although the question was neither decided nor considered, nor even contemplated, by the judges in Dred Scott's case, yet if his opinions be the necessary result of what was then decided or declared, the honorable delegate may well be content. He can now assure himself that whenever the question shall arise—and it can be of no consequence until it has arisen—the decision of the Supreme Court will be exactly as he desires; and he is, therefore, abundantly certain of all the protection to slave property within the Territories that ever will be requisite. In my opinion, sir, no such question was decided in the case of Dred Scott, nor intended to be decided, or concluded, or in any wise affected. I shall not take refuge under the pretext to which the honorable delegate alluded; namely, that the Supreme Court had exhausted its jurisdiction before it arrived at the argument whether or no Congress could exclude slaves or slavery from the Territories. I agree that the constitutionality of the Missouri Compromise (so called) was fully before the Court for adjudication, and was fully adjudicated; but I deny that the right of a Territorial Legislature to exclude the institution of slavery, or to deal with property in slaves to the same extent as with all other property, was before the Court in any shape or form. No such question was presented by the record; there was no act of any Territorial legislature in the case—no organization of a Territorial government over the public domain where the parties had resided. It was not a controversy brought from the courts of a Territory; and nothing in it, or about it, could give occasion to any argument upon that question. We have, also, the public declaration of

Hon. Reverdy Johnson, in whose favor, as counsel, the case of Dred Scott was decided, that neither he, nor his eminent colleague, Hon. Henry S. Geyer, now deceased, ever argued the question at bar. What more need be said? I stand upon every syllable of Chief Justice Taney's opinion; I repudiate nothing which that opinion affirms; but I certainly did not expect the honorable delegate from Alabama—I might have expected it from an advocate less able or less frank—to select occasional words or sentences, a paragraph here and a paragraph there, without regard to their true connection, and thus eke out a conclusion of something never examined by the judges, nor argued by counsel. It is of that, sir, I have complained frequently, and now complain. I do not believe that Chief Justice Taney intended the slightest reference to the question whether a Territorial Legislature could or could not, by a prospective law, forbid the introduction of slaves or the establishment of slavery; if he did, there is no sign of it in his reported opinion—and none, assuredly, in the reported opinion of any other judge. I never heard a Senator or a Representative in Congress, belonging to the Democratic party, attribute such an effect to the case of Dred Scott until within twelve or fourteen months past.

But after the Lecompton controversy had been concluded, and there was a general disposition of all sincere Democrats, in the South as well as in the North, to bury even the remembrance of that fruitless issue, the present controversy was provoked — needlessly, causelessly, and wantonly provoked. That has brought on us, of the Northwestern States, the heaviest misfortunes with which we are now afflicted. We had almost recovered from the disaster of 1854—a disaster produced by the combination of the Know Nothing party, so called, with Abolitionists, Whigs, and seceders from our own ranks. We had so far commended our doctrines to reasonable men, of all parties, that in November, 1856, Mr. Buchanan lost the electoral college of Ohio by a plurality of sixteen or seventeen thousand, while Mr. Fillmore received upwards of twenty thousand votes. We undertook to prove, and did prove, wherever we went, that the doctrine of CONGRESSIONAL NON-INTERVENTION would give peace to the whole country, and secure to both sections alike—to the North and to the South—their equal right to the enjoyment of the Territories as the possession of all the people of all the States in common. In October of the next year (1857) my honored colleague, Mr. PAYNE, who spoke this morning, was defeated for Governor of Ohio by a plurality of twelve hundred votes—the American candidate receiving more than ten thousand. What a descent from the opposition majority of 75,000 in 1854! We obtained, also, in October, 1857, a large majority in each House of the Ohio Legislature.

The Lecompton controversy would not have injured us so seriously, in October, 1858, but for the unwarrantable interference of the Federal Administration with the local elections in our neighbor State of Illinois. Even then, at the utmost disadvantage, we returned more Democrats, from Ohio, to the House of Representatives, at Washington, than were returned from any other non-slaveholding State—more than North Carolina, or Kentucky, or Tennessee returned, or even Mississippi, or Louisiana—as many, in fact, as Arkansas, Texas, Florida, and Delaware combined. In the month of February, 1859, the present controversy flamed on us from the South—suddenly, and, as we believe, for no adequate reason. It was a new claim, and a dangerous one—overthrowing the cherished and most firmly seated doctrines of the ancient and true Republican or Democratic party, and menacing us with a renewal, IN CONGRESS, of all the disturbances from which we had promised our people a final and perpetual deliverance.

It was demanded of us, boldly, what faith can longer be reposed in the Democracy of the South? Did we not (said our own friends) conclude a solemn agreement and covenant, in 1854, for the removal of this controversy out of

Congress, and its reference to the people of the Territories, subject only to such limitations of Territorial authority as the Supreme Court of the United States should, from time to time, declare? Did we not—falling from the summit of prosperity, which we then enjoyed at home, to our present debased circumstances—seal that very covenant with our heart's blood?

There sits my honored friend, General DODGE, a delegate from Iowa, one of the first victims of the Kansas-Nebraska bill; there sits my honored friend from Michigan, Mr. STUART, whose vote for the same bill was an act of suicide. Gentlemen of the South, show me such examples in *your* ranks; show me the man, one man, who has ever breasted a storm like that—who, after years and years of confidence and applause from his constituents, has deliberately gone forward, and, for the sake of his Northern friends, taken upon himself the honors of political martyrdom. You have no such man here, nor any where else; you cannot show him to me. Those two Senators could have been reëlected—could have abandoned you, and saved themselves (if they had so chosen) as readily as you would now abandon us. But they chose, at the certainty of their own defeat, to make an agreement with you; and having scrupulously kept their faith, as against all temptation, ought you to be less faithful toward them?

The Kansas-Nebraska bill contains the agreement to which I allude. Did that contemplate the intervention of Congress, in any event, for the maintenance of slavery, or even the protection of slave property, within the Territories? It certainly did not. The honorable delegate from Alabama mentioned the clause of it known as the Badger proviso; I will show you in what connection that proviso stands, and the very words in which it is expressed. The bill first declares the Missouri restriction of March 6th, 1820, to be "inconsistent with the principle of non-intervention, BY CONGRESS, with slavery in the States and Territories," as recognized by the compromise measures of 1850, and, therefore, wholly inoperative and void. We know that Congress refused, in 1850, either to annul or affirm, within the Territories of New Mexico and Utah, the old decree of the Mexican republic abolishing slavery and excluding property in slaves. It was left to the courts of the United States to decide, whenever the question should arise, whether that decree had or had not ceased to be effectual upon the cession of the Territories to us.

But the Kansas-Nebraska bill did not terminate here; it assigned the reason why Congress annulled the act of March 6th, 1820, after refusing, in 1850, to annul the former laws of New Mexico and Utah. The words are these:

"It being the true intent and meaning of this act not to *legislate* slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject *only* to the Constitution of the United States."

Not "subject" to farther legislation by Congress—nothing of that sort. The people of each Territory were to have their own "way" thereafter—to "legislate" for themselves—to "regulate their domestic institutions," including the admission or exclusion of slavery, at their pleasure; "subject," however, in this respect, as in all others, to such prohibitions or restrictions as the Constitution of the United States had laid upon them—but "subject *only* to the Constitution."

In no event, therefore, as contemplated by the bill, was CONGRESS to interpose its legislation—whether for the protection, or the establishment, or the prohibition, or the abolition of slavery. Because here, right here, comes the Badger proviso:

"*Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th March, 1820, either *protecting*, establishing, prohibiting, or abolishing slavery."

Congress would not protect slavery in Nebraska or Kansas; would not even "legislate" for the admission of slavery into them: Neither would Congress allow any remnant of legislation prior to March 6th, 1820, any trace of old Spanish or French codes, decrees, or customs, to be invoked for that purpose. All were swept out of existence, or rather prevented from coming into existence, by the terms of Mr. Badger's amendment. Whatever *legislation* may be deemed requisite, at any time, for the protection of slavery in Kansas, or in Nebraska; such legislation, in all its length and breadth, and of every degree, except in some crisis of anarchy, violence, or insurrection, must proceed from the Legislature of the Territory, and not from the Congress of the United States.

Gentlemen of the South! that was the mutual covenant between you and us in 1854—a covenant solemnly ratified on both sides, at Cincinnati, in 1856, and by a unanimous vote. You see, therefore, in what position the Democracy of the Northwest now stand, and where we will continue to stand. I ask no sympathy in our political misfortunes, past or present, for we intend to recover all that we have lost; but I do ask you, as brethren, as friends in former days, whether you taught us the doctrine of "*Non-intervention by Congress with slavery in the States and Territories*" thirteen or fourteen years ago, repeating it to us in 1848, in 1850, in 1852, in 1854, in 1856, and yet imagine that we are so regardless of our consistency, our honor, our self-respect, as in 1860, at your beck and mere demand, to recant the whole of it? You once demanded that doctrine of us, and at a time when we were strong and you were weak; we acceded to your demand as brethren, and calmly took upon ourselves the most disastrous consequences. We are about to achieve success in the very field of our disasters; and have you the heart to say that we shall strike our ancient flag—the flag endeared to us by so many associations, by the baptism of sorrow through which we have carried it even now to the gates of victory?

The honorable delegate from Alabama advised the Southern Democracy to accept a present defeat rather than forego the demand which he made for them. I do not even require so much; you will not, you cannot be defeated, in the Southern States, if we maintain our old terms of alliance. Let us now stand together, closely side by side, as we did four years ago. As for the *second* resolution reported by the minority of the Committee, I am quite indifferent whether it be adopted or rejected. What is good in it—and what, I presume, it really intends—is already expressed in the Kansas-Nebraska bill. I have said that I am no admirer of *judicial* platforms; they are insecure structures, and might as well be avoided. But I have no hesitation in saying, and I know that is what my colleague (Mr. Payne) means, that with regard to the Federal Government alone, its co-ordinate branches and their correlative obligations, the mandates of the Judiciary ought never to be so contravened by the Legislature as to induce a collision, or any serious conflict or disturbance. If more be attributed to the resolution, or can fairly be imputed by others, let us amend it or wholly reject it.

As to the report of the majority (taking its several resolutions together) I cannot and will not agree to it. Not, sir, because I have sympathy with Abolitionists, or new-fangled Republicans, or whatsoever else those men call themselves, or may be called—far from that. It is because I believe in construing the Constitution by strict rules—believe in the reserved rights of the States as proclaimed, in 1798 and 1799, by the Virginia and Kentucky resolutions—that I will never consent to arm the Federal Government with such powers as have been claimed for it; powers which it cannot wisely or even prudently exercise; powers the very attempt to exercise which, as all of us know, must renew controversy, discord, and bitter estrangement. I had earnestly hoped there was an end to all this; let us make an end of it now!

The honorable delegate from Alabama exhorted us of the North also—ex-

horted us to teach our people the rightfulness, the expediency, the advantages of African slavery as an institution or domestic relation. I do not accept the exhortation: it is none of my business to declare what Alabama, or any other State, should resolve on that subject; nor does it pertain to the honorable delegate whether we, or those whom we represent, agree or disagree with him. The question is not one of Federal character, or concernment. But now, consulting with each other, as the representatives of all the States, slaveholding and non-slaveholding, in regard to matters of common interest—about to enter upon a Presidential campaign of unexampled importance—I exhort you, gentlemen of the South, by the hopes and promises of success (vital to us, and even more vital to you) not to be misled, or deceived, or betrayed. Do not suffer yourselves to be driven from the old faith and safe practice of the Democratic party! Let no sectional pressure upon you, my Southern friends, induce you to abandon the Cincinnati platform! We, of the North, have encountered, and that frequently, a like pressure—yes, indeed, pressure a thousand-fold more imminent—but we have not yielded to it, thus far, one thousandth part of a hair's breadth. Can you show me, any where, an ultimate safeguard as valuable as this? Shall it be the case, henceforth, whenever two, three, or more of the Southern States adopt a new platform, and come into our Convention demanding its recognition as the price of their electoral votes, that we must, all of us, North and South, surrender to such demands—lest they should accuse us of "squatter" sovereignty, or Abolitionism, or Black Republicanism, or any thing else? Are you afraid of mere nicknames? If so, come into our Northern country, and listen to the speeches of your and our enemies. My own opinion is, frankly, that the Democratic party of the South has, this day, such an opportunity to prove its faith, its courage, its honor, as does not happen to a man more than once in his life-time. You must now resist the urgency of fanaticism in your section—resist it, my Southern friends, as we have resisted it in the North! You have been so maltreated, so reviled, so shamefully abused, by the Black Republicans, for the last six or seven years, that some of you have become utterly alarmed—frightened out of all reason—and even wildly evince a determination to quit the old Democratic party, and seek some other contrivance for shelter. My friends, there is no refuge of that sort any where. If the Democratic ship ever should founder—go down into the vortex of angry waves—think not some raft, or a mere boat, of Southern or of Northern construction, will be able to save either you or us! But whilst we have a ship, with our ancient ensign displayed, there must be no mutiny on board. If any of the delegates will not submit to Democratic usage, to the rules of our Democratic organization, the sooner they leave us the better. We shall part with them, if part we must, without anger, reluctantly, and in sorrow.

For myself, in conclusion, I repeat that the resolutions proposed by the majority of the Committee are objectionable to me not so much because of any advantage which may enure from their doctrine to one section or to another; but because I am opposed to the renewal of a mischievous controversy once fairly settled, and, as we had all hoped, forever determined. I desire the people of the United States, North and South, to engage in some other discussion—to quarrel, if need be, on something else than this eternal business of slavery and slaves. Nothing is to be gained by its discussion. When such controversies, therefore, can result in no advantage to either side; when they breed constant ill-blood, disaffection, and disturbance—the disruption of political parties formed on higher considerations, and for much higher objects—I implore gentlemen from the South to rise above the atmosphere of their passions and their prejudices. There never was a more urgent occasion than the present; and never has DUTY called upon them more loudly, more earnestly, than it does now.